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UNCLAS GUATEMALA 001177

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SENSITIVE

E.O. 12958: N/A

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SUBJECT: 2007 REPORT ON INVESTMENT DISPUTES - GUATEMALA

Ref: A) 06 Guatemala 1087, B) State 55422

In response to ref B this message updates information outlined in last year's report (ref A)

¶1. Claimant A: Embassy has not been contacted by claimant A during 2006 and first semester of 2007 on the status of evicting illegal settlers from her farm. This case appears to be resolved or inactive.

¶2. Claimant B: Claimant B's disputes with the railroad regulator continue, with no short term resolution in sight. On August 11, 2006, the Guatemalan Government declared injurious to the interests of the state the contract with Claimant B. On March 13, 2007, Claimant B filed its Notice of Intent to Submit Claims for Arbitration under CAFTA against the Republic of Guatemala. Claimant B alleges the Injurious Resolution had been an indirect expropriation of the company's assets and for that reason demands US\$65 million in compensation and damages from the Guatemalan Government. However, Guatemala's Attorney General claims the company got ahead of itself as domestic legal appeals have not been exhausted. The Embassy continues its advocacy with GOG authorities on behalf of claimant.

¶3. Claimant C: Claimants contacted the Embassy in March 2007 as their farms have been invaded again by illegal settlers since January 2007.

¶4. There are no other investment disputes that meet the criteria of ref B. However, four majority US owned electricity producers had various disputes with the regulator in 2006. The regulator at one point threatened to renegotiate their contracts; however, a voluntary solution on cutting prices was found in 2006. One of these firms, Duke Energy, was also in discussions with the government about its contract, which it could not fulfill since it had lost its source of cheap fuel (Orimulsion from Venezuela). However, Duke Energy's contract was terminated by mutual agreement in 2006. Embassy will continue to track the cases of these companies and advocate on their behalf when appropriate.

¶5. Claimant A: Margaret Argudo  
Claimant B: Ferrovias Guatemala  
Claimant C: Carlos Ardebol and Roger Perez Ardebol

¶6. Recommendation: Only claimant B should be listed in the Section 527 report, should this case meet Department's criteria.

DERHAM